

In the Matter of)	Order No. D05-94
)	
PHYSICIANS INSURANCE)	CONSENT ORDER
A MUTUAL COMPANY,)	ASSESSING A FINE,
WESTERN PROFESSIONAL)	ORDERING REFUNDS, AND
INSURANCE COMPANY, and)	REQUIRING CORRECTIVE
NORTHWEST DENTISTS)	ACTIONS
INSURANCE COMPANY)	
)	
Authorized Insurers)	

FINDINGS OF FACT

1. Physicians Insurance Company A Mutual Company (PI), Western Professional Insurance Company (WPIC), and Northwest Dentists Insurance Company (NDIC), collectively the “Companies,” are affiliated companies authorized to transact insurance in the state of Washington.

2. In October 2003, the Office of the Insurance Commissioner (OIC) received a rate filing from PI to be effective January 1, 2004. During the course of the filing review of the 2004 rates it was discovered by the OIC that the company was using unfiled Increased Limits Factors (ILFs) for physicians’ and surgeons’ malpractice insurance during 2003. An ILF is a rating factor that must be filed with the OIC under the provisions of RCW 48.19.040(1).

3. Follow up information obtained from the Companies reflected that in several years between January 1, 1995, and December 31, 2003, PI had used ILFs that differed from its filed ILFs and that WPIC, which had not filed ILFs for individual physician’s policies, had nonetheless used ILFs from 1999 through 2004.

4. As a result, in the year 2003, PI collected \$1,328,384 more in premiums than was warranted by its rate filing then in effect, and WPIC collected \$7,034 more in premium than was warranted by its rate filing then in effect.

5. In October 2004, the OIC scheduled a target market conduct examination of the Companies to cover their operations in property/casualty lines of business written in Washington in the areas of agent licensing, complaint handling, underwriting and rating, rate and contract filing, and claims settlement practices for the period from June 1, 2003, through May 31, 2004.

6. In some of the areas identified in Finding of Fact No. 5 above, the initial phases of the market conduct examination revealed numerous and widespread operational issues which reflect serious insurance code compliance issues with respect to which the Companies must take corrective steps. As a consequence the Insurance Commissioner finds it is appropriate to terminate the examination pursuant to RCW 48.03.060(5) in order to pursue other action necessary to correct the problems.

CONCLUSIONS OF LAW

1. PI and WPIC's use of rates that were not in accordance with their filings then in effect violated RCW 48.19.040 (6), and their failure to file revised rates within thirty days of issuing policies using those rates violated RCW 48.19.043(2).

2. RCW 48.03.060(5) authorizes the Insurance Commissioner to terminate an examination to pursue other action.

3. Upon a finding such as that contained in paragraph 6 above, RCW 48.03.030(2) authorizes the retention of experts.

4. RCW 48.05.185 authorizes the Insurance Commissioner to impose a fine in lieu of or in addition to the suspension or revocation of an insurer's certificate of authority.

5. PI and WPIC's insureds during 2003 who paid premiums in excess of the amounts permitted by the Companies' rate filings then in effect are entitled to refunds in the principal amount of \$1,335,418 together with appropriate interest.

CONSENT TO ORDER

The Companies wish to resolve these matters without further administrative or judicial proceedings at this time, and the Companies hereby consent to the entry of this order. They acknowledge their duty to comply fully with the applicable laws and regulations of the state of Washington, and they agree to the following conditions:

1. The Insurance Commissioner will terminate the above-referenced target market conduct examination of the Companies on the condition that the Companies comply with paragraph 5 below;

2. For the insurance code violations set forth in Findings of Fact Nos. 3 and 4, and by agreement of the parties, PI and WPIC jointly will pay a fine of \$90,000;

3. For the one-year period after the above-referenced target market conduct examination is terminated, the OIC will stay any enforcement action based upon insurance code violations found by the OIC examiners, or reported by the Companies or its consultants, unless the Insurance Commissioner in his sole discretion determines that

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an enforcement action is reasonably required to protect the interests of the Companies, the insureds, or the public;

4. During the one-year period after the target market conduct examination is terminated, the Companies agree that any statute of limitations that might otherwise apply to any regulatory action by the OIC against the Companies is tolled;

5. Recognizing the Insurance Commissioner's authority granted in RCW 48.03.030(2), the Companies agree to retain consultants and hire staff with expertise to advise the Companies on the changes to procedures and business operations necessary to correct and address the insurance code compliance issues identified in the market conduct examination. The Companies agree to provide copies of the consultants' recommendations to the OIC and will submit when requested by the OIC monitoring reports measuring the Companies' progress and level of success in achieving and maintaining regulatory compliance;

6. PI and WPIC shall refund \$1,335,418 to the insureds who paid premiums in 2003 in excess of the amounts permitted by the rate filings then in effect together with appropriate interest.

EXECUTED AND AGREED this ____ day of _____, 2005.

PHYSICIANS INSURANCE A MUTUAL COMPANY

Signature _____

Printed Name _____

Printed Corporate Title _____

WESTERN PROFESSIONAL INSURANCE COMPANY

Signature _____

Printed Name _____

Printed Corporate Title _____

NORTHWEST DENTISTS INSURANCE COMPANY

Signature _____

Printed Name _____

Printed Corporate Title _____

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ORDER

NOW, THEREFORE, pursuant to the foregoing Findings of Fact, Conclusions of Law, and Consent to Order, the Insurance Commissioner hereby orders as follows:

1. The target market conduct examination of the Companies is hereby terminated, conditioned upon the Companies fully carrying out and completing the steps and terms set forth in the section of this order headed "Consent to Order;"
2. PI and WPIC are ordered to pay a fine within thirty days in the amount of \$90,000;
3. The Companies are ordered to carry out and complete the steps and terms set forth in the section of this order headed "Consent to Order;"
4. PI shall refund the amount of \$1,328,384 plus appropriate interest;
5. WPIC shall refund the amount of \$7,034 plus appropriate interest;
6. The obligations and payment liability of the Companies under this order are joint and several;
7. Upon payment of the fine and refunds as set forth in Paragraphs 4 and 5 above, the OIC will not take further enforcement action on the insurance code violations identified in Findings of Fact Nos. 3 and 4.
8. This order is without prejudice to the right of the Insurance Commissioner to commence and maintain regulatory or enforcement action based upon insurance code violations other than those set forth in Findings of Fact Nos. 3 and 4, except to the extent that a stay is in force as provided in paragraph 3 of the Consent to Order;
9. Failure to pay the fine or make the refunds due under this order or to carry out in full the terms and conditions set forth in this order shall constitute grounds for suspension or revocation of the certificates of authority held by the Companies in the state of Washington, and may also result in a civil action brought on behalf of the Insurance Commissioner by the Attorney General to collect the fine or to compel the refunds due under this order.

EXECUTED AT TUMWATER, WASHINGTON, this ____ day of _____, 2005.

MIKE KREIDLER
Insurance Commissioner

By _____
Charles D. Brown
OIC Staff Attorney

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